

Categorical Exclusion Documentation Format for Actions Other Than Hazardous Fuels and Fire Rehabilitation Actions

2014 MBAA Mountain Bike Race NEPA Number: DOI- BLM-AZ-C030-2014-0009-CX

A. Background

BLM Office: Lake Havasu Field Office (AZ030)

Special Recreation Permit/Case File No.: BLM-AZ-C030-2014-03

Proposed Action Title/Type: Mountain Bike Association of Arizona Mountain Bike Special Recreation Permit

Location of Proposed Action: Mohave County, SARA Park, Aubrey Hills, T13N R19W Sections 28, 29, 32-35 T12N R19W Section 4

Description of Proposed Action:

Authorize a one day Special Recreation Permit (SRP) for an application received by the Mountain Bike Association of Arizona (MBAA), which proposes a commercial and competitive mountain bike endurance event on public lands situated in Lake Havasu City, Arizona. The event of the proposed SRP would occur on February 22, 2014.

Event staging would occur on R&PP leased lands located on SARA Park. Two designated non-motorized trails would be utilized; these trails occur on Bureau of Land Management (BLM) administered public lands and are approximately 10 miles in length. Event participants would commence activities on SARA Park between 8:30 and 11:30 am, and travel on two loops on approved courses as part of a timed endurance competition. The route travelling through T13N R19W Section 29 would be designated for junior use only. Adult and advanced rider participation would take place on the route traveling through T13N R19W Sections 28, 29, 32-35 and T12N R19W Section 4 (See Exhibit 1-Map). Both courses would be signed by the permittee 24 hours prior to event start and no off-trail travel would be authorized. All event activity on BLM public lands would be completed by 1:00 pm.

The applicant will coordinate with Lake Havasu City and local law enforcement officials to control traffic, participants, and spectators on SARA Park. Additionally, the applicant would inform both event participants and casual users of event activities upon arrival to SARA Park. The only other access road that leads to public lands within the proposed area of use is located approximately four miles south of SARA Park on Highway 95. This access road is gated to the

public and designated in the Havasu Travel Management Plan as limited to administrative use. While this limited access does not present any foreseeable conflict or safety concerns, the gate would be signed by the applicant 24 hours prior to the start of the event. All event signing, litter, and trash will be properly disposed of within 72 hours of event conclusion.

B. Land Use Plan Conformance

Land Use Plan Name: *Lake Havasu Field Office Resource Management Plan*

Date Approved/Amended: May, 2007

The proposed action is in conformance with the applicable LUP because it is specifically provided for in the following LUP decision(s):

- Page 103, Special Recreation Permits and Vendor permits will be monitored for compliance and effectiveness on an as-needed basis through the NEPA process.

C. Compliance with NEPA:

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 2.3 required that before any action described in the list of categorical exclusions is used, the exceptions must be reviewed for applicability in each case. The proposed action cannot be categorically excluded if one of more of the exceptions apply, thus requiring either an environmental assessment of environmental impact statement.

The proposed action qualifies as a Categorical Exclusion pursuant to 516 DM 11.5.H(1):Issuance of special recreation permits for day use or overnight use up to 14 consecutive days; that impacts no more than 3 staging area acres; and/or for recreational travel along roads, trails, or in areas authorized in a land use plan.

This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The proposed action has been reviewed (See Attachment 1), and none of the extraordinary circumstances described in 516 DM2 apply.

I considered the proposal to authorize a one day, mountain bike endurance event at the listed locations. The design features and stipulations identified in Exhibit 2 would eliminate any potential for significant impacts to the environment.

D. Signature

Authorizing Official: /s/ Kimber Liebhauser Authenticated: Amanda Deeds Date: 2/10/2014
(Signature)

Name: Kimber Liebhauser

Title: Field Manager, Lake Havasu Field Office

Contact Person

For additional information concerning this CX review, contact Amanda Deeds, Outdoor Recreation Planner, Lake Havasu Field Office, 2610 Sweetwater Ave. Lake Havasu City, AZ 86406

Note: A separate decision document must be prepared for the action covered by the CX. See Attachment 2.

Attachment 1: Extraordinary Circumstances Review

Extraordinary Circumstances	Comment
1. Have significant effects on public health or safety.	No Rationale: The event proponent would be responsible for ensuring event safety for all participants. The proponent would also be responsible for informing event participants and casual users of event activities and course upon arrival to SARA Park.
2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988) national monuments; migratory birds; and other ecologically significant or critical areas.	No Rationale: No off trail travel would be authorized; therefore adverse effects to natural and historic resources are not anticipated.
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].	No Rationale: No known controversial environmental effects or unresolved conflicts are known to exist within the project area.
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.	No Rationale: No unique environmental risks are known to exist.
5. Establishes a precedent for future action or represents a decision in principle about future actions with significant environmental effects.	No Rationale: The proposed trails are currently designated open to non-motorized use as proposed in the mountain bike event. Special Recreation Permits (SRPs) have been authorized for non-motorized recreation activities and applications will continue to be accepted for events within the project area.
6. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.	No Rationale: No cumulatively significant environmental effects are anticipated. Trail use will continue to be open for non-motorized recreation and SRP events.
7. Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the bureau or office.	No Rationale: No listed or eligible National Register of Historic Places properties are known to exist within the project area.

8. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.	No Rationale: No listed or Threatened or Endangered Species are known to exist within the project area. No Critical Habitat is known to exist within the project area.
9. Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.	No Rationale: The proposed project will not violate any applicable law. The event proponent will be held to all applicable laws as well as the stipulations presented within this analysis.
10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).	No Rationale: The proposed action is located in an unpopulated, unincorporated area.
11. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).	No Rationale: No Indian sacred sites are known to exist within the project area.
12. Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).	No Rationale: No off-trail travel would be authorized; therefore this proposed project is not anticipated to contribute to the introduction or spread of noxious weeds.

Approval and Decision

Attachment 2

Compliance and assignment of responsibility Recreation

Monitoring and assignment of responsibility: Recreation

Review: We have determined that the proposal is in accordance with the categorical exclusion criteria and that it would not involve any significant environmental effects. Therefore, it is categorically excluded from further environmental review.

Prepared by: /s/ Amanda Deeds **Authenticated:** Amanda Deeds **Date:** 2/7/2014
Amanda Deeds, Outdoor Recreation Planner
Project Lead

Reviewed by: /s/ David Daniels **Authenticated:** Amanda Deeds **Date:** 4/30/2014
David Daniels
Planning and Environmental Coordinator

Reviewed by: /s/ Jayson Barangan **Authenticated:** Amanda Deeds **Date:** 2/7/2014
Jayson Barangan
Assistant Field Manager

Project Description: Authorize a one day Special Recreation Permit (SRP) for an application received by the Mountain Bike Association of Arizona (MBAA), which proposes a commercial and competitive mountain bike endurance event on public lands situated in Lake Havasu City, Arizona. The event of the proposed SRP would occur on February 22, 2014.

Event staging would occur on R&PP leased lands located on SARA Park. Two designated non-motorized trails would be utilized; these trails occur on Bureau of Land Management (BLM) administered public lands and are approximately 10 miles in length. Event participants would commence activities on SARA Park between 8:30 and 11:30 am, and travel on two loops on approved courses as part of a timed endurance competition. The route travelling through T13N R19W Section 29 would be designated for junior use only. Adult and advanced rider participation would take place on the route traveling through T13N R19W Sections 28, 29, 32-35 and T12N R19W Section 4 (See Exhibit 1-Map). Both courses would be signed by the permittee 24 hours prior to event start and no off-trail travel would be authorized. All event activity on BLM public lands would be completed by 1:00 pm.

The applicant will coordinate with Lake Havasu City and local law enforcement officials to control traffic, participants, and spectators on SARA Park. Additionally, the applicant would inform both event participants and casual users of event activities upon arrival to SARA Park. The only other access road that leads to public lands within the proposed area of use is located approximately four miles south of SARA Park on Highway 95. This access road is gated to the public and designated in the Havasu Travel Management Plan as limited to administrative use. While this limited access does not present any foreseeable conflict or safety concerns, the

gate would be signed by the applicant 24 hours prior to the start of the event. All event signing, litter, and trash will be properly disposed of within 72 hours of event conclusion.

Decision: Based on a review of the project described above and field office staff recommendations, I have determined that the project is in conformance with the land use plan and is categorically excluded from further environmental analysis. It is my decision to approve the action as proposed, with the following stipulations (if applicable).

Approved By: /s/ Kimber Liebhauser Authenticated: Amanda Deeds
Kimber Liebhauser
Field Manager, Lake Havasu Field Office

Date: 2/10/2014

APPEALS

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4. If an appeal is taken, your notice of appeal must be filed in the Lake Havasu Field Office, 2610 Sweetwater Avenue, Lake Havasu City, AZ 86406 within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition (request) pursuant to regulation 43 CFR 2801.10 or 43 CFR 2881.10 for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with the Lake Havasu Field Office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

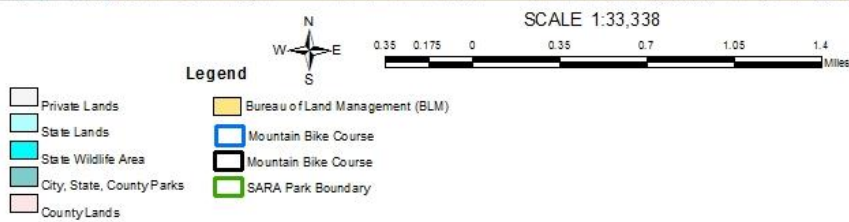
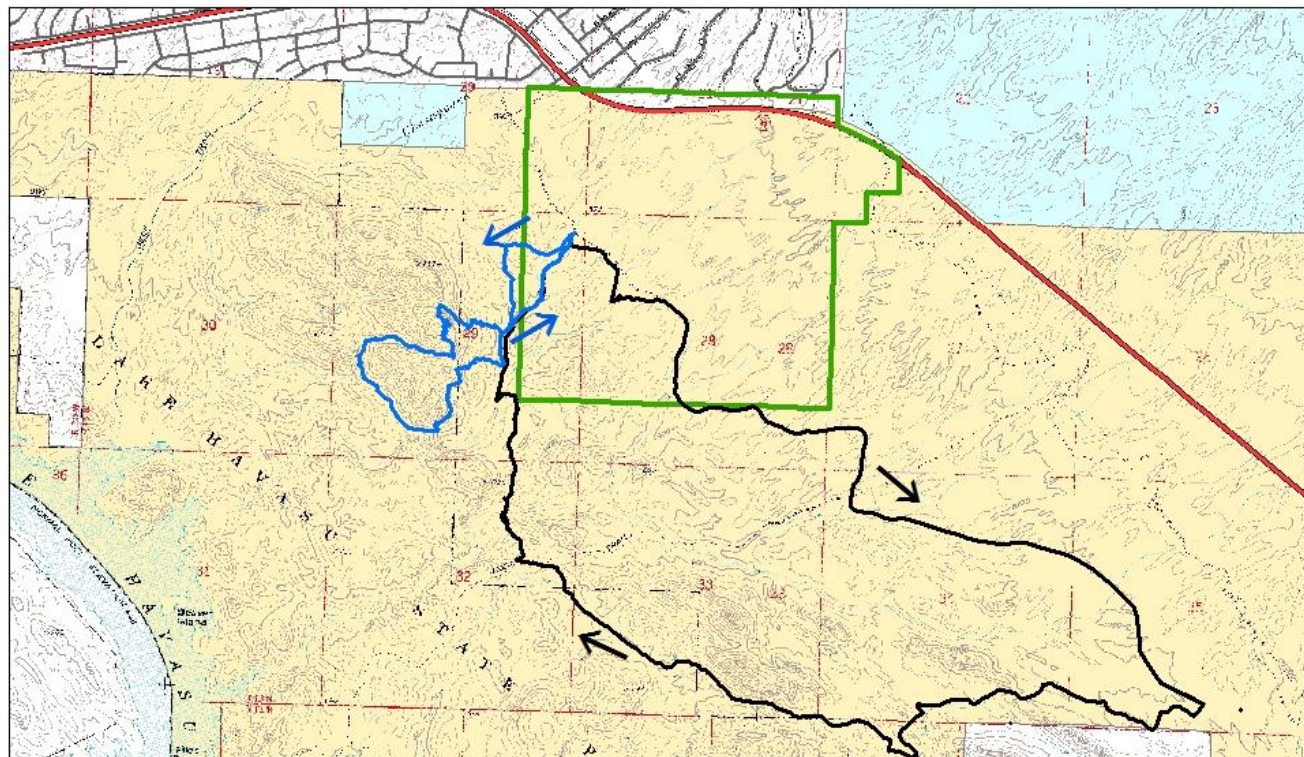
- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

Exhibits:

- 1) **Map**
- 2) **Stipulations**
- 3) **Guidelines for Handling Sonoran Desert Tortoises Encountered on Development Projects Arizona Game and Fish Department Revised October 23, 2007**

Exhibit 1: Map

MBAA Bicycle Race 2014



The Bureau of Land Management (BLM) makes no representations or warranties regarding the accuracy or completeness of this map. The map does not address encroachments or questions of location, boundary, and area, which an accurate survey may disclose. This map is provided and is to be used as an illustration only. The map is merely representative, and the data from which it was derived are not binding on the BLM and may be revised at any time in the future. The BLM shall not be liable under any circumstances for any direct, indirect, special, incidental, or consequential damages (including to any claim by any user or any third party) on account of or arising from the use of this map or the data from which it was derived.

United States Department of the Interior
Bureau of Land Management
Arizona State Office
Land Status updated as of November 2012
Map Prepared: 12/9/2013



Document Path: T:\AZ\Kingman_JD\gis\workspace\MBAA\MBAA Proposal 2014.mxd

Exhibit 2: Stipulations

1. The permittee shall comply with all Federal, State, and Local laws, ordinances, regulations, orders, postings, or written requirements applicable to the area or operations covered by the Special Recreation Permit. The permittee shall ensure that all persons operating under the authorization have obtained all required Federal, State, and local licenses or registrations. The permittee shall make every reasonable effort to ensure compliance with these requirements by all agents of the permittee and by all clients, customers, participants, or spectators under the permittee's supervision.
2. A Special Recreation Permit authorizes special uses of the public lands and related waters and, should circumstances warrant, the permit may be modified by the BLM at any time, including the amount of use. The authorized officer may suspend a SRP if necessary to protect public resources, health, safety, the environment, or noncompliance with permit stipulations.
3. No value shall be assigned to or claimed for the permit, or for the occupancy or use of Federal lands or related waters granted thereupon. The permit privileges are not to be considered property on which the permittee shall be entitled to earn or receive any return, income, price or compensation. The use of a permit as collateral is not recognized by the BLM.
4. Unless expressly stated, the SRP does not create an exclusive right of use of an area by the permittee. The permittee shall not interfere with other valid uses of the Federal land by other users. The United States reserves the right to use any part of the area for any purpose.
5. The permittee or permittee's representative may not assign, contract, or sublease any portion of the permit authorization or interest therein, directly or indirectly, voluntarily or involuntarily. However, the authorized officer may approve contracting of equipment or services in advance, if necessary to supplement a permittee's operations. Such contracting should not constitute more than half the required equipment or services for any one trip and the permittee must retain operational control of the permitted activity. If equipment or services are contracted, the permittee shall continue to be responsible for compliance with all stipulations and conditions of the permit.
6. All advertising and representations made to the public and the authorized officer must be accurate. Although the addresses and telephone numbers of the BLM may be included in advertising materials, official agency symbols may not be used. The permittee shall not use advertising that attempts to portray or represent the activities as being conducted by the BLM. The permittee may not portray or represent the permit fee as a special Federal user's tax. The permittee must furnish the authorized officer with any current brochure and price list if requested by the authorized officer.
7. The permittee must assume responsibility for inspecting the permitted area for any existing or new hazardous conditions, e.g., trail and route conditions, land slides, avalanches, rocks, changing water or weather conditions, falling limbs or trees, submerged objects, hazardous wildlife, or other hazards that present risks for which the permittee assumes responsibility.
8. In the event of default on any mortgage or other indebtedness, such as bankruptcy, creditors shall not succeed to the operating rights or privileged of the permittee's SRP.
9. The permittee cannot, unless specifically authorized, erect, construct, or place any building, structure, or other fixture on public lands. Upon leaving, the lands must be restored as nearly as possible to pre-existing conditions.

10. The permittee must present or display a copy of the Special Recreation Permit to an authorized officer's representative, or law enforcement personnel upon request. If required, the permittee must display a copy of the permit or other identification tag on equipment used during the period of authorized use.
11. The authorized officer, or other duly authorized representative of the BLM, may examine any of the records or other documents related to the permit, the permittee or the permittee's operator, employee, or agent for up to three (3) years after expiration of the permit.
12. The term of the permit shall be for one day from the issuance of the permit on February 22, 2014 and has the potential to be renewed for no more than ten years total with satisfactory performance of SRP.
13. A Post Use Report shall be submitted to the BLM Authorized Officer within 30 days after conclusion of the event and will include a detailed summary of the number of participants and activity participation.
14. The applicant/permittee is required to provide the Authorized Officer with a copy of a valid insurance policy or proof thereof covering the periods of use, before any use under this permit begins. The required minimum general liability limits are: \$500,000 per occurrence and \$1,000,000 annual aggregate for bodily injury; and \$30,000 annual aggregate for property damage. The U.S. Government must be named as additional insured on the policy. All liability policies are to specify that the insurance company shall have no right of subrogation (substitution) against the United States of America. The permittee shall indemnify and hold harmless the United States against any liability for personal injury, loss of life, or property damage arising in any way from activities under the permit.
15. The permittee shall pay BLM a Special Recreation Permit (SRP) fee of \$100, effective February 22, 2014. The permittee shall pay BLM \$5.00 per participant per day; 3% of the gross receipts; or the minimum SRP fee, whichever is greater. The minimum advance fee of \$100.00 will be required.
16. The permit will remain valid only if annual fees have been paid.
17. The permittee shall notify the authorized officer of any accident that occurs while involved in activities authorized by this permit which results in: death, personal injury requiring hospitalization or emergency evacuation, or in property damage greater than \$2,500 (lesser amounts if established by State law). Reports should be submitted within 48 hours in the case of death or injury, or 10 days in accidents involving property damage.
18. The permit shall not be construed in any way as preventing public use or access on any public lands except as expressly allowed under the permit. All permitted trails will remain open for public use; the permittee has no exclusive use of any public route.
19. Failure to comply with permit stipulations may result in denial of future permit authorizations for these events, or revocation of permits already issued.
20. All participants shall stay on the authorized trails. Permittee will sign and/or mark event trails and access roads 24 hours prior to event start. Straying from the course is prohibited. In the event of bicycle breakdown, bikes shall be moved to the side of the trail, or walked to the ending location, but shall not be moved into areas of existing vegetation.

21. Under no circumstances shall the permittee permanently mark the routes by placing signs, painting rocks or painting plants.
22. Nothing in this permit implies permission to use non-Federal land. It shall be the responsibility of the permittee to coordinate the event with the City of Lake Havasu as necessary, and to obtain written authorization to cross or utilize non-BLM administered land such as ASLD, Tribal Lands, Mohave County Road Department, Arizona Department of Transportation, and private property.
23. All permit use is limited to the designated trails. In the event of participants leaving the established trails, reclamation of disturbed areas will be required to the satisfaction of the BLM Authorized Officer, including raking of surface disturbance, re-vegetation, etc.
24. The number of trips per day is limited to schedule as stated in the permit operations plan.
25. In the event that a participant injures livestock, BLM personnel and/or the grazing permittee in the area will be immediately contacted to make an evaluation of the animal's condition. Under no circumstance will any person other than BLM personnel or the animal's owner be permitted to make a final evaluation of the animal's condition, or to destroy an animal that appears to be suffering.
26. Permittee will coordinate with local law enforcement and emergency services to ensure law enforcement involvement in event planning and execution.
27. All non-motorized activity will be conducted in a safe manner; reckless biking is a permit violation.
28. BLM reserves the right to postpone or cancel the event if weather conditions create road surfaces that would be conducive to unacceptable trail damage.
29. Permittee will be responsible for public safety within the project area. Permittee will inform all participants of trail etiquette techniques, safe driving practices, safety equipment, and the location of emergency service personnel. Permittee will inform all event participants and non-event visitors of event logistics including: event course, direction of travel, event duration, and the location of alternative trails that would eliminate user conflict.
30. No event activity is authorized to occur after sunset.
31. Permittee shall comply with all State and Federal laws relating to prehistoric or historic archaeological sites or artifacts. Actions other than those explicitly approved by the Bureau of Land Management which result in impacts upon archaeological resources, shall be subject to the judicial proceedings of the Archaeological Resources Protection Act of 1979, as amended, and the Federal Land Policy and Management Act of 1976. As property of the United States, no person may, without authorization, excavate, remove, damage, or otherwise alter or deface any historic or prehistoric site, artifact, or object of antiquity located on public lands.
32. The collection of artifacts or disturbance of archaeological resources on Federal Lands is prohibited and is prosecutable under the Archaeological Resources Protection Act. Disturbance of human graves are also prohibited. Actions other than those explicitly approved by the Bureau of Land Management, which result in impacts upon archaeological or historical resources, shall be subject to the provisions of the Archaeological Resources Protection Act of 1979 as amended and the Federal Land Policy and Management Act of 1976. The permittee will immediately bring to the attention of the Authorized Officer any archaeological or historical

resources encountered during permitted operations and maintain the integrity of such resources pending subsequent investigation.

33. Special collection of artifacts (either historic or prehistoric) or fossils, by permittee or participants on or near any designated route is prohibited. The definition of an artifact is anything over 50 years old that has been made, used or modified by a human. Permittee is required to inform all participants that collecting artifacts, theft or vandalism of any cultural property is a violation of the above mentioned Federal and/or State laws.

34. No overnight camping use, wood, or rock collection is associated with this permit.

35. The permittee is expected to be familiar with and to practice "Leave No Trace" and "Tread Lightly" land use ethics principles. All trash and litter, as a result of the activity will be disposed of in a proper manner.

36. Permittee and all participants are prohibited from stopping at, or entering any and all known and unknown abandoned mine features. Any open mine shafts, abandoned mine structures observed by the permitted would be documented and reported to the BLM Authorized Officer within 24 hours of discovery.

37. Care shall be taken not to disturb or destroy tortoises or their burrows. Handling, collecting, damaging, or destroying desert tortoises are prohibited by Arizona State Law. During the event special care should be given to watch for and avoid any desert tortoise that may be present on a trail.

38. Care shall be taken not to disturb or destroy desert tortoises or their burrows. Handling, collecting, damaging, or destroying desert tortoises are prohibited by Arizona State Statute. Any sightings of desert tortoise shall be immediately reported to the LHFO, Wildlife Biologist at (928) 505-1200. If a desert tortoise is endangered by any activity that activity shall cease until the desert tortoise moves out of harm's way on its own accord or is moved following the attached guidelines "Guidelines for Handling Sonoran Desert Tortoises Encountered on Development Projects."

39. State protected plant species shall not be disturbed, damaged, or destroyed without prior authorization from the BLM. The taking of any threatened or endangered plant or animal is prohibited. All wildlife and migratory birds shall be observed from a distance. Any injured wildlife shall be reported to the Arizona Game & Fish Dept. at (928)342-0091. Harassment of wildlife, wild horses or burros, or destruction of private and public improvements such as fences and gates is prohibited.

40. Participants will be prohibited from approaching bighorn sheep on foot or by bike. Site visits to water tanks, wildlife catchments, or any other wildlife related facility are prohibited.

Exhibit 3. Guidelines for Handling Sonoran Desert Tortoises Encountered on Development Projects Arizona Game and Fish Department Revised October 23, 2007

The Arizona Game and Fish Department (Department) has developed the following guidelines to reduce potential impacts to desert tortoises, and to promote the continued existence of tortoises throughout the state. These guidelines apply to short-term and/or small-scale projects, depending on the number of affected tortoises and specific type of project.

The Sonoran population of desert tortoises occurs south and east of the Colorado River. Tortoises encountered in the open should be moved out of harm's way to adjacent appropriate habitat. If an occupied burrow is determined to be in jeopardy of destruction, the tortoise should be relocated to the nearest appropriate alternate burrow or other appropriate shelter, as determined by a qualified biologist. Tortoises should be moved less than 48 hours in advance of the habitat disturbance so they do not return to the area in the interim. Tortoises should be moved quickly, kept in an upright position parallel to the ground at all times, and placed in the shade. Separate disposable gloves should be worn for each tortoise handled to avoid potential transfer of disease between tortoises. Tortoises must not be moved if the ambient air temperature exceeds 40° Celsius (105° Fahrenheit) unless an alternate burrow is available or the tortoise is in imminent danger.

A tortoise may be moved up to one-half mile, but no further than necessary from its original location. If a release site, or alternate burrow, is unavailable within this distance, and ambient air temperature exceeds 40° Celsius (105° Fahrenheit), the Department should be contacted to place the tortoise into a Department-regulated desert tortoise adoption program. Tortoises salvaged from projects which result in substantial permanent habitat loss (e.g. housing and highway projects), or those requiring removal during long-term (longer than one week) construction projects, will also be placed in desert tortoise adoption programs. Managers of projects likely to affect desert tortoises should obtain a scientific collecting permit from the Department to facilitate temporary possession of tortoises. Likewise, if large numbers of tortoises (>5) are expected to be displaced by a project, the project manager should contact the Department for guidance and/or assistance.

Please keep in mind the following points:

- These guidelines do not apply to the Mojave population of desert tortoises (north and west of the Colorado River). Mojave desert tortoises are specifically protected under the Endangered Species Act, as administered by the U.S. Fish and Wildlife Service.
- These guidelines are subject to revision at the discretion of the Department. We recommend that the Department be contacted during the planning stages of any project that may affect desert tortoises.
- Take, possession, or harassment of wild desert tortoises is prohibited by state law. Unless specifically authorized by the Department, or as noted above, project personnel should avoid disturbing any tortoise.